

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:08CR398 CDP
)	
DENNIS FIALLOS ORELLANA,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on defendant Dennis Fiallos Orellana's motion to suppress evidence and statements. Pursuant to 28 U.S.C. § 636(b), the motions were referred to United States Magistrate Judge Frederick R. Buckles. Judge Buckles held two evidentiary hearings and thereafter filed his Report and Recommendation regarding the defendant's motions. Although defendant did not file objections within the time limit to the Magistrate Judge's Report, once he decided not to plead guilty, he requested leave to file objections out of time. I am granting that motion for leave, and will consider the objections as if they had been timely filed.

I have conducted *de novo* review of the motions, including reviewing all briefs and considering all evidence, including the transcripts of the hearings and the documentary evidence. After doing so I conclude that the motion to suppress

evidence and statements should be denied, for the reasons stated by the Magistrate Judge. Specifically, the defendant was lawfully stopped and arrested, all items were constitutionally seized, and defendant's custodial statements were made freely and voluntarily after he waived his right to counsel. I will adopt and sustain the thorough reasoning of Magistrate Judge Buckles set forth in support of his recommended rulings issued on October 17, 2008.


Accordingly,

IT IS HEREBY ORDERED that defendant's motion for leave to file objections [#77] is granted.

IT IS FURTHER ORDERED that the Report and Recommendation of the United States Magistrate Judge [#71] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant's motion to suppress evidence and statements [#42] is denied.

As I previously ordered, this case has been set for jury trial on **Monday, January 5, 2009 at 8:30 a.m.** and will be reached first on the docket.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 10th day of December, 2008.